



FAO-8111-2017 (O&M)

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257 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-8111-2017 (O&M)

Date of decision: 07.11.2024

Oriental Insurance Co.Ltd.

....Appellant

Versus

Seema and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

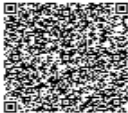
Present:- Mr. R.C. Gupta, Advocate for the appellant
Mr. Deepak Girhotra, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. In this appeal the only dispute between the parties is with regard to quantum of compensation. With regard to the involvement of offending vehicle, the findings of the Tribunal being rash and negligent are not in dispute.

2. Learned counsel representing the appellant submits that the Tribunal has erred in increasing income by 50% on account of future prospects whereas as per judgment passed by the Five Judge Bench in '*National Insurance Company Ltd. vs. Pranay Sethi and other*' 2017 (10) SCC 450, the future income is liable to be increased by 40%. This fact is not disputed by the learned counsel representing the respondents. However, he submits that the Tribunal has erred in determining the age of the deceased as 32 years whereas on the basis of matriculation certificate, which was produced in evidence his age was 29 years.

3. Learned counsel representing the appellant submits that no cross appeal has been filed by the claimants.



4. While contesting the appeal filed for reduction of compensation, the respondents are entitled to pray for assessment of appropriate compensation. Order XLI Rule 33 of the Code of Civil Procedure, 1908, enables the Appellate Court to decide the appeal in accordance with law irrespective of the fact that cross appeal or cross objections have not been filed.

5. Keeping in view the aforesaid facts, the amount of compensation is revised as under:-

Heads	Compensation awarded by the Tribunal	Compensation awarded by the High Court
Income	Monthly : 8000/- Annual : 96,000/-	Monthly : 8000/- Annual : 96,000/-
Deduction	1/4th	1/4th
Future prospects	50%	40%
Multiplier	16	17
Loss of estate and Funeral expenses	36,000/-	36,000/-
Loss of consortium	48,000/- per claimant = 1,92,000/-	48,000 x 4 = 1,92,000/-
Total compensation	18,53,000/-	19,41,600/-

6. The enhanced amount shall be payable alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of its realisation.

7. Disposed of.

8. All the pending miscellaneous applications, if any, are also disposed of.

07.11.2024
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE